

Appln No. 10/687,847  
Amdt date December 8, 2005  
Reply to Office action of October 28, 2005

**REMARKS/ARGUMENTS**

Claim 1-41 are pending in the above-referenced application.

Claims 27 and 36 have been amended to place the claim in condition for allowance, and to correct a typographical error.

This is a response to the Office Action dated October 28, 2005 wherein the Examiner objected to claim 36 for referring to an apparatus instead of a method, rejected claims 1, 7-8, and 36 under §102(e) for being anticipated by Sand et al. (US 6,655,401); rejected claims 2-6, 9-25, 27-35, and 37-39 under §103(a) for obviousness in view of Sand et al. and one or more of the following secondary references: (1) common knowledge in the art, (2) Wachman et al. (US 5,242,323), (3) Marais et al. (Pub. No. 2004/0037737), (4) Grune et al. (US 6,293,153), (5) Bristol (Pub. No. 2003/0150936), (6) Taylor (Pub. No. 2002/0061263), (7) Stanley (Pub. No. 2004/0156744), and (8) Buongiorno et al. (Pub. No. 2002/0061474). In view of the remarks that follow, reconsideration and a notice of allowance are respectfully requested.

Claims 26 and 40-41 have been allowed, to which Applicant respectfully thanks the Examiner.

Please note that Applicant has left two voice mails with the Examiner in an attempt to clarify the claims and the references as set forth below, which were not returned. If the Examiner is inclined to issue anything but a Notice of Allowance, Applicant respectfully requests a telephone conference.

**§102(e) Rejection of Claims 1, 7-8, and 36**

Claims 1, 7-8, and 36 are rejected as being anticipated by Sand et al. Of the rejected claims under §102(e), claim 1 is the only independent claim.

Claim 1 recites, in part, a method for diluting a concentrated solution of sterilant for sterilizing instruments or equipment comprising the steps: providing an eductor, hooking a container containing concentrated sterilant to the chemical inlet port of the eductor; hooking a water supply source to the water inlet port of the eductor, the water supply source comprising a

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pressure regulating valve; activating the eductor by opening a valve to mix water and concentrated sterilant to a desired admixture containing a volume of sterilant to a volume of water; adjusting the admixture; and using the admixture.

Claim 1 makes clear that a pressure regulating valve is used to regulate the working pressure and a different valve to mix water and concentrated sterilant. Contrariwise, Sand et al. only discloses a single block valve 34. Thus, Sand et al. cannot anticipate claim 1 as required under §102(e) by disclosing each and every element of the claim. Reconsideration and a notice of allowance are respectfully requested.

Because claims 7, 8 and 36 depend either from claim 1, they too are allowable for at least the same reasons as claim 1.

§103(a) Rejection of Claims 2-6, 9-25, 27-35, and 37-39

Claims 2-6, 9-25, 27-35, and 37-39 are rejected under §103(a) for obviousness over Sand et al. in view of one or more of the following secondary references: (1) common knowledge in the art, (2) Wachman et al. (US 5,242,323), (3) Marais et al. (Pub. No. 2004/0037737), (4) Grune et al. (US 6,293,153), (5) Bristor (Pub. No. 2003/0150936), (6) Taylor (Pub. No. 2002/0061263), (7) Stanley (Pub. No. 2004/0156744), and (8) Buongiorno et al. (Pub. No. 2002/0061474). While these secondary references are relied on to show various aspects that are lacking in Sand et al. (such as adjusting the working pressure up or down while leaving the metering tip with the first orifice size, a certain sterilant composition, etc.), none of the secondary references are relied on to disclose an apparatus or a method of using an apparatus comprising an eductor, a pressure regulating valve for regulating the working pressure of the water supply, and a separate valve so that regulated water flows through the water inlet port and concentrated chemical solution flows through the chemical inlet port.

Independent claim 1, as discussed above, recites, in part, a method for diluting a concentrated solution of sterilant for sterilizing instruments or equipment comprising the steps: providing an eductor, hooking a container containing concentrated sterilant to the chemical inlet port of the eductor; hooking a water supply source to the water inlet port of the eductor, the

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water supply source comprising a pressure regulating valve; activating the eductor by opening a valve to mix water and concentrated sterilant to a desired admixture containing a volume of sterilant to a volume of water; adjusting the admixture; and using the admixture.

Independent claim 10 recites, in part, a method for diluting a concentrated chemical solution with water for use in a health care facility comprising the steps: providing an eductor housed in a housing; adjusting the eductor's output by adjusting a pressure regulating valve; hooking an inlet line connected to a container containing the concentrated chemical solution to the eductor's chemical inlet port; hooking an inlet line from a water supply source downstream of the regulating valve to the eductor's water inlet port; activating the eductor by opening a valve so that regulated water flows through the water inlet port and concentrated chemical solution flows through the chemical inlet port; outputting the admixture; and applying the admixture.

Independent claim 19 recites, in part, an apparatus for diluting a concentrate comprising: a proportioning and dispensing unit comprising at least two eductors, a first container; a second container; a line connecting a motive source to the motive source inlet port, the line comprising a pressure regulating valve for regulating pressure supplied by the motive source, a third hose; a valve to permit regulated motive source from the pressure regulating valve at the second pressure to flow through the first eductor; and wherein a first metering tip is removably received in the first chemical inlet port and a second metering tip is removably received in the second chemical inlet port.

Independent claim 27 recites, in part, a method for dispensing an admixture of concentrated chemical solution and water in a proportioning and dispensing unit comprising: mounting two eductors to a housing and mounting the housing in a health care facility, connecting a first chemical; connecting a second chemical; connecting a water supply line to the common water inlet header; the water supply line comprising a pressure regulating valve to regulate water pressure from a first pressure to a second pressure; activating at least one of the first eductor or the second eductor by opening a valve to open a port on the activated eductor; and wherein the chemical inlets of the first and second eductors each comprises a metering tip having an orifice.

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As presently recited, independent claims, 1, 10, 19, and 27 clearly recite the features not disclosed by Sand et al. or by one of the secondary references. Among other things, independent claims 1, 10, 19, and 27 recite, in part, an apparatus or a method of using an apparatus comprising an eductor, a pressure regulating valve for regulating the working pressure of the water supply, and a separate valve so that regulated water flows through the water inlet port and concentrated chemical solution flows through the chemical inlet port.

Sand et al. discloses a single block valve 34 for opening or closing water flow to the dispenser. Sand et al. neither disclose, contemplate, appreciate, or hint at using a second valve, whether that second valve is a pressure regulating valve or a block valve. Indeed, the '401 patent specification only discloses a single valve 34. Accordingly, Sand et al. in combination with one or more of the secondary references cannot render any of the four independent claims obvious.

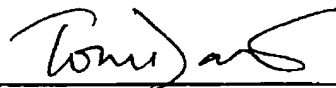
Because claims 2-6, 9, 11-18, 20-25, 28-35, 37-33 depend from at least one of claim 1, 10, 19, or 27, they too are allowable.

In view of the remarks set forth above, the application is thought to be in condition for allowance and early notice thereof is respectfully solicited. In the event the Examiner believes otherwise, Applicants respectfully request a formal telephone interview as this opinion would clearly show a misunderstanding by one or the other party of either the teachings of the '401 patent and/or the scope of the claims. Applicant's attorney can be reached by contacting the undersigned at the telephone number identified below.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By



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